

**UNITED STATES BANKRUPTCY COURT
EASTERN AND WESTERN DISTRICTS OF ARKANSAS**

**IN RE: JOHN ALLEN MOORE
MELISSA JANE MOORE**

**NO. 2:07-70963
CHAPTER 13**

ARKANSAS BEST FEDERAL CREDIT UNION

PETITIONER

**MOTION FOR RELIEF FROM STAY
OR IN THE ALTERNATIVE, MOTION TO DISMISS**

Comes now Arkansas Best Federal Credit Union by and through it undersigned attorneys and for its Motion for Relief From the Automatic Stay, or in the alternative, Motion to Dismiss, herein states and alleges as follows:

1. This Court has exclusive jurisdiction over this proceeding. The Debtors filed their Chapter 13 petition on or about April 2, 2007. Debtors have a shares account with the Movant.

2. Movant has placed an administrative freeze on the funds of Debtors' shares account, as is their right to do so. *Citizens Bank v. Strumpf*, 133 L.Ed 2d 258 (1995); *In re Hoffman*, 51 BR 42 (BC WD Ark. 1985).

3. On or about June 11, 2001, Debtors opened a checking account with Petitioner. As of the date of this pleading, there is a negative balance in the checking account in the amount of \$5,239.98. Debtors have failed and refused to correct the negative balance. See, attached documents, marked as Exhibit 1.

4. Debtor currently has a balance of \$2,209.50 in a shares account. If the funds were released to the Debtors, Movant's rights would be highly compromised. Movant is entitled to relief from stay to set off the funds in dispute in order to protect their claim.

5. Pursuant to the Federal Credit Union Act, 12 U.S.C. Sec. 1751 et seq., funds in the Debtors' shares account secure any amount the Debtors owe the credit union for any reason. Debtors should have, therefore, scheduled this obligation loan as partially secured. However, Debtors have not listed this obligation in their plan at all. Accordingly, Debtors have not committed sufficient funds to timely pay secured creditors.

6. Alternatively, Movant seeks dismissal of Debtor's bankruptcy petition. The inability to distribute money to creditors is a valid reason for dismissal, therefore, Petitioner alternatively moves for the dismissal of Debtor's bankruptcy petition.

WHEREFORE, Arkansas Best Federal Credit Union prays for relief from the automatic stay; or in the alternative, for dismissal of Debtor's bankruptcy petition, and for all other just and equitable relief.

Respectfully submitted,

/s/ M. Wade Hodge

M. Wade Hodge (Bar #90072)
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Federal Credit Union

CERTIFICATE OF SERVICE

I, Mark Wade Hodge, PA, do hereby certify that a true and correct copy of the foregoing has been mailed, properly addressed and postage pre-paid to:

Joyce Bradley Babin
Bankruptcy Trustee
P.O. Box 8064
Little Rock, AR 72203-8064

and

Darrell W. Johnson
Attorney at Law
20 North 6th Street
Fort Smith, AR 72901-2102

on this 19th day of June, 2007.

/s/ M. Wade Hodge
Mark Wade Hodge, PA